

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RICARDO BENITEZ,

Plaintiff,

-against-

THE CITY OF NEW YORK, RAUL LOPEZ, FRANK
LIBRETTO, SERGEANT STAMM, AND TINA GRILLO,

Defendants.
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**DECLARATION OF
MICHAEL K. GERTZER**

17-CV-3827 (SJ)(SJB)

MICHAEL K. GERTZER declares pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the following is true and correct:

1. I am an attorney in the office of Zachary W. Carter, Corporation Counsel of the City of New York, attorney for defendants and I make this declaration in support of defendants' motion to dismiss plaintiff's amended complaint pursuant to Fed.R.Civ.Pro. 12(b)(6).
2. Annexed hereto as **Exhibit "A"** are relevant excerpts from plaintiff's first criminal trial held October 12-19, 2010.
3. Annexed hereto as **Exhibit "B"** is a copy of the TIPS DD5
4. Annexed hereto as **Exhibit "C"** is a copy of the photo array shown to Bernadette Johnson in which she identified plaintiff as the robber.
5. Annexed hereto as **Exhibit "D"** is a copy of the lineup report memorializing the lineup shown to Bernadette Johnson.
6. Annexed hereto as **Exhibit "E"** are relevant excerpts from the independent source hearing held on August 9, 2010.

7. Annexed hereto as **Exhibit “F”** are relevant excerpts from plaintiff’s second criminal trial held on March 2-11, 2015.
8. Annexed hereto as **Exhibit “G”** are relevant excerpts from the hearing held on June 14, 2010.
9. Annexed hereto as **Exhibit “H”** is a copy of Indictment No. 2429-09.

Dated: New York, New York
December 1, 2017

/s
MICHAEL K. GERTZER